

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JOSEPH MISTRETTA and CATHERINE
MISTRETTA

Plaintiffs,

-against-

JOHN SALLITTO,

Defendant.
-----X

FEUERSTEIN, District Judge:

ORDER TO SHOW CAUSE
13-CV-2073 (SJF/MD)

IN CLERK'S OFFICE
U S DISTRICT COURT E D N Y

★ NOV 05 2013 ★

LONG ISLAND OFFICE

On April 9, 2013, plaintiffs Joseph Mistretta and Catherine Mistretta (collectively, "plaintiffs") filed a complaint in this Court against defendant John Sallitto ("defendant") and paid the statutory filing fee, and a summons was issued as to defendant. On October 2, 2013, plaintiffs were ordered to show cause, by filing an affidavit on or before November 4, 2013, why this action should not be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure because plaintiffs did not file proof of service of the summons and complaint upon defendant within one hundred twenty (120) days after the complaint was filed. The October 2, 2013 order advised plaintiffs that their failure to file an affidavit in accordance with that order would result in this action being dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

Since plaintiffs did not file an affidavit in accordance with the October 2, 2013 order, file proof of service of the summons and complaint upon defendant to date, or seek an extension of time either to file an affidavit in accordance with the October 2, 2013 order or to serve the summons and complaint upon defendant, this action is dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. The Clerk of the Court is directed to close this case.

SO ORDERED.

s/ Sandra J. Feuerstein

SANDRA J. FEUERSTEIN
United States District Judge

Dated: Central Islip, New York
November 5, 2013